



County of Los Angeles CHIEF EXECUTIVE OFFICE

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April 5, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to be "W. T. Fujioka", is written over the printed name and title.

SACRAMENTO UPDATE

This memorandum provides an update on County-sponsored legislation related to the Brown Act; information on legislation of County interest related to reporting requirements on child fatalities; and a report on a hearing conducted by a budget subcommittee on the Governor's FY 2012-13 Proposed Budget.

Pursuit of County-Sponsored Legislation

SB 1736 (Smyth), as amended March 29, 2012, would authorize the legislative body of a local agency to hold closed sessions with the Governor, in addition to the currently authorized Attorney General, district attorney, agency counsel, sheriff or chief of police or their respective deputies, or a security consultant or security operations manager. The bill also specifies that inclusion of the Governor in closed meetings to discuss security matters enhances the health and safety of the people of California.

Existing law, specifically the Ralph M. Brown Act, enacted by the Legislature in 1958, governs open meetings conducted by local legislative bodies, such as boards of supervisors, city councils, school boards, municipal corporations, special districts, and all other public entities. The Brown Act is intended to guarantee public access to the meetings of local legislative bodies and provide that all of the deliberative processes by local legislative bodies, including discussion, debate, and the acquisition of information, be open and available for public scrutiny.

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Further, the Brown Act establishes requirements for: 1) posting meeting notices and agendas; 2) notifying the media; 3) convening meetings within the jurisdiction of the governing entity; 4) public inspection of records; 5) the broadcast of public meetings; 6) providing for public testimony; and 7) conducting public votes, among other requirements.

On February 7, 2012, your Board directed the Sacramento advocates to seek legislation to amend Government Code Section 54957 of the Brown Act to authorize the President of the United States and the Governor to meet in executive session with the Board of Supervisors on matters posing a threat to the security of public buildings or essential public services. Therefore, consistent with your Board's directive, the Sacramento advocates will pursue enactment of SB 1735.

Assembly Member Cameron Smyth agreed to author the legislation, but without reference to the President because, according to Legislative Counsel, the President is a Federal Constitutional officer and is therefore not subject to the terms of the Brown Act. There is currently no known support for or opposition to the bill.

AB 1736 is scheduled for hearing on April 11, 2012 in the Assembly Local Government Committee.

Legislation of County Interest

AB 1440 (Perea), which as amended on March 29, 2012, would require county child welfare agencies, within 60 calendar days of a determination that abuse or neglect led to the death of a child, to review and prepare a written report regarding the child's death. The report would need to contain the following three items of information: 1) an analysis of the circumstances leading to the child's death; 2) an evaluation of whether child welfare services provided to the child, if any, could have been improved; and 3) recommendations regarding how to improve the delivery of child welfare services for children in the future, assuming the agency's evaluation determined that child welfare services delivered to the child could have been improved.

In addition, AB 1440 would require county child welfare agencies to submit the report to the California Department of Social Services (CDSS) within 10 business days of its completion, and CDSS would review the contents of the report to identify any systemic issues or patterns that need improvement. CDSS would be required to base its annual report concerning child fatalities on, among other things, the 60-day reports received from various counties. As previously reported, AB 1440 was introduced on January 4, 2012. The proposed amendments on March 29, 2012 are technical and clarifying changes.

Existing Law

Current law, enacted under SB 39 (Chapter 468, Statutes of 2007), requires counties to release, upon request, certain items of information related to the death of a child. Whenever there is a reasonable suspicion that a child's death resulted from child abuse and neglect, a limited set of information must be released within five business days. Furthermore, when any of three agencies (law enforcement, coroner or child welfare) concludes that abuse or neglect led to the child's death, a second set of documents may be released, subject to redactions and the ability of certain persons and agencies to raise objections. Existing law requires each county child welfare agency to notify CDSS of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on those notices and any other relevant information in its possession, CDSS must annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information.

Potential County Impact

According to the Department of Children and Family Services (DCFS), the completion and submission of reports on every child death determined to be due to child abuse and neglect, as proposed under AB 1440, would have a significant operational impact to DCFS and the County. DCFS indicates that the department's current review process is extensive, which always includes County Counsel, and frequently includes consultation with regional staff, policy specialists, the department's executive team and director. Case level reports, with confidential case and practice information are completed at specified intervals during the review process, with some reviews and reports being completed within time periods longer than the time intervals proposed in the legislation.

The Department of Children and Family Services indicates that there are some cases in which it would be likely that the Department could complete comprehensive reports within the 60-day timeframe, as proposed under AB 1440. These would include cases with limited or no DCFS history, or where there is no reason for DCFS to conduct an investigation, such as there are no surviving siblings. Conversely, there are cases where it would be highly unlikely that the Department would be able to complete comprehensive reports within the 60-day timeframe, such as cases with extensive DCFS history; cases in which active investigations are still taking place by law enforcement, DCFS or the Coroner; and cases involving dependency court jurisdiction. According to DCFS, given that under AB 1440 the entire process would encompass only a total of 70 days (60 calendar days for the completion of the investigative report and 10 business days for submission to the CDSS), meeting these deadlines for all cases would not be feasible for the reasons stated above.

Furthermore, DCFS indicates that current responsibilities under SB 39 (Chapter 468, Statutes of 2007) are handled by three children's services administrators. In order to meet the proposed 60-day report under AB 1440, DCFS estimates that two additional staff would be required. In addition, County Counsel estimates that there would be increased annual costs for their review of the new proposed reports under AB 1440.

According to County Counsel, AB 1440 does not indicate that the proposed 60-day reports mandated would be privileged, and reports might be publicly obtainable in those instances where confidential information could be adequately redacted. Consequently, their content could harm the legal interests of the authoring county and the children the county seeks to protect. County Counsel further indicates that there is significant risk that the reports, or portions of the reports, could become public and adversely impact criminal investigations and prosecutions.

There is no existing Board policy relating to AB 1440; however, we will continue to analyze the bill and are in communication with the County Welfare Directors Association of California to identify and address any potential concerns to the County.

Status

AB 1440, which is co-authored by Assembly members Alejo, Allen, Blumenfield, Bonilla, Hueso, Lara, and Nestande, and Senators Blakeslee and Cannella, is scheduled for a hearing in the Assembly Human Services Committee on April 10, 2012. The measure is supported by the Crime Victims Action Alliance and there is no registered opposition at this time.

Subcommittee Hearing on the Governor's Budget

On March 28, 2012, the Assembly Budget Subcommittee No. 5 on Public Safety held an informational hearing on the Governor's proposal to terminate the intake of new juvenile offenders at the State's Division of Juvenile Justice (DJJ) facilities. This follows a similar hearing by the Senate Budget Subcommittee on No. 5 on Public Safety the previous week on the same issue.

The Legislative Analyst's Office (LAO) testified in support of the Governor's proposal in concept and offered several suggested recommendations regarding the timeline of the termination of in-take at DJJ and outlined outstanding questions that would need to be addressed. There was general agreement among the LAO, Department of Finance, and Subcommittee members that the Governor's proposal to close DJJ lacked detail and was difficult to properly analyze at this time. The Department of Finance testified

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that the Administration would present a revised detailed proposal regarding DJJ when it releases the May Revised Budget.

A number of stakeholders representing juvenile justice advocates, the parents of juvenile offenders incarcerated in DJJ facilities and former DJJ wards testified during the hearing in support of the Governor's proposal. The proposal was opposed by county representatives including Los Angeles County, as well as representatives from the Chief Probation Officers' Association, California District Attorneys' Association, and several State labor unions.

The Subcommittee held this item open for consideration until further details are released during the May Budget Revision hearings.

We will continue to keep you advised.

WTF:RA
MR:KA:IGEA:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
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